

REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

The method Claims 15-21 have been cancelled, as has the newly introduced Claim 22. New Claims 23-25 have been introduced. Claims 1, 3, 6-9, 13-14 and 23-25 are active in the application.

All of the claims have been amended to further recite detector means for detecting that a construction machine has left the base station and for detecting that the construction machine has returned to the base station, and the new claims recite specific features of this means. Basis for this can be found in the second full paragraph of page 6 in the specification. Specifically, a detector 23a, 23b is arranged on the gate 30 along a passing direction of the construction machine, and so is able to detect that a construction machine is leaving the base station, or that a construction machine has returned to the base station, based upon the output signal order from the sensors.

The claims have further been amended to recite that the transmission controller includes means responsive to a signal from the detector means that the construction machine has returned to the base station. Basis for this can be found in the last full paragraph of page 6 in the specification (“with the detection signals output from the sensors 23a, 23b as a trigger, the operating information reception processing unit 22a transmits a transmission request of operating information to the operating information transmission processing unit 11d of the construction machine 32”).

Additionally, Claim 7 has been amended to change “data” to “date” basis for correcting this typographical error can be found in the first full paragraph of page 7 in the specification.

Applicant wishes to thank examiner Jacques for the courtesy of an interview on May 19, 2004, at which time the outstanding rejections were discussed, as were possible

amendments corresponding to those of the present response. No agreement was reached at that time, pending the examiner's further review of the references, but the examiner suggested adding further amendments which have been incorporated into new Claims 23-25.

All of the claims stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. patent publication 2001/0037298 (Ehrman et al.). The Examiner there states that Ehrman discloses a fully automated vehicle rental system wherein a transmission controller transmits operating information through a wireless radio when it is determined that the "construction machine" is within a transmission permissible area related to the permitted range of the wireless radio when the "construction machine" returns to the base station.

As was discussed during the interview, Ehrman et al. is not concerned with a construction machine, but instead discloses an automobile rental system (paragraph [002]). In fact, there is no teaching or suggestion whatsoever in Ehrman et al. for a construction machine. Accordingly, Ehrman et al. fails to disclose the claimed "operating information collection means at said construction machine (Claims 1 and 9), as well as other recitations directed to a construction machine. Since anticipation of a means plus function limitation requires that the prior art provide the exact same function (MPEP § 2182; "Both before and after *Donaldson*, the application of a prior art reference to a means or step plus function limitation requires that the prior art element perform the identical function specified in the claim"), Claims 1 and 9 are not anticipated by Ehrman et al.

Beyond this, Ehrman et al. fails to teach or suggest the claimed "detector means for detecting that a construction machine has left the base station and for detecting that the construction machine has returned to the base station," together with a transmission controller including means "responsive to a signal from the detector means that the construction machine has returned to the base station for transmitting the operating information read from the storage means to the first receiving device through the wireless radio." The relevant

portion of Ehrman et al. is found in paragraphs [0027]-[0029] and Figure 3. No portion of the reference teaches or suggests the claimed feature of a detector means for detecting that a construction machine has left the base station and for detecting that a construction machine has returned to the base station.

Initially, it is noted that Ehrman et al. is not concerned with construction machines, and so could not provide a teaching for the claimed function. Beyond this, Ehrman et al. does not teach detecting that a vehicle has left or returned to a base station, but simply responds to a transmitted location from the transmitter. More specifically, Ehrman et al. does not disclose means equivalent to that disclosed in the present specification, i.e., a detector which can discriminate between the vehicle leaving the base station and the vehicle returning to the base station, based upon the signal order. The claims therefore clearly define over Ehrman et al.

The claims have also been rejected under 35 U.S.C. § 103 as being obvious over Imanishi et al. (of record) in view of Ehrman et al. The Examiner there recognized that Imanishi et al. does not disclose that a construction machine is within a permissible area. The Examiner instead relied upon Ehrman et al. to provide this teaching. However, whatever teaching Ehrman et al. may provide, it lacks a teaching of a detector means equivalent to that disclosed in the present application.

The claims were also rejected under 35 U.S.C. § 103 as being obvious over Imanishi et al. in view of the newly cited U.S. patent 6,408,232 (Cannon et al.). However, there is no disclosure of a detector in Cannon. Instead, when the vehicle pulls within the range of the antenna of the garage, an inquiry is made to establish communication therebetween (column 3, lines 53-56). Accordingly, Cannon et al. is incapable of overcoming the shortcomings of Imanishi et al. with respect to the amended claims.

The claims have also been rejected under 35 U.S.C. § 103 as being obvious over Imanishi et al. in view of the newly cited U.S. patent 6,006,148 (Strong). However, in the automated vehicle return system of Strong, the return of the vehicle is determined by the host computer transmitting a polling signal at periodic intervals (column 4, lines 56-60) and the reception of the poll packets (col. 6, lines 34-44; col. 10, lines 8-38). There is no disclosure of a detector, particularly one equivalent to that disclosed in the present application, and so the amended claims define over any combination of the above references.

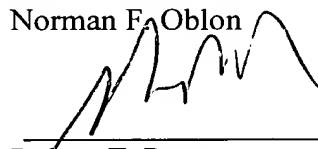
Concerning paragraphs 8-10 of the Office Action, the claims have been rejected as being obvious over the U.S. patent to Yamamoto in view of Ehrman et al., Cannon et al. or Strong. In each case, the examiner has recognized that Yamamoto does not disclose that the construction machine is within a transmission permissible area, and so relies upon the secondary references to provide the required teaching. However, as has already been discussed, none of the secondary references discloses or suggests a detector means equivalent to that set forth in the claims. The amended claims therefore define over any combination of the above reference.

Applicant believes that the present application is in a condition for allowance and respectfully solicits an early Notice of Allowability.

Respectfully submitted,

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